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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/087,278	03/01/2002	Guolin Ma	10003645-1	3085
57299	7590	04/25/2006	EXAMINER	
AVAGO TECHNOLOGIES, LTD. P.O. BOX 1920 DENVER, CO 80201-1920			MAI, HUY KIM	
			ART UNIT	PAPER NUMBER
			2873	

DATE MAILED: 04/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/087,278

Applicant(s)

MA ET AL.

Examiner

Huy K. Mai

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 February 2006.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1,5-12 and 16-20 is/are rejected.  
7) ☒ Claim(s) 2-4 and 13-15 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.


**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 24 April 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

  
Huy Mai  
Primary Examiner

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1,5-12,16-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Kitagawa et al (JP 11-183794).

The limitations in claims 1,9,10,12,20 are shown in Kitagawa et al's Fig. 1. Kitagawa et al discloses a lens 1 comprising a first surface 2 and a second surface 3 wherein the first and second surfaces are aspherical surfaces, the first surface is a diffraction surface 4 wherein the lens provides a short focal distance 5 mm and capable of compensating chromatic aberration.

Regarding claims 5,16, Kitagawa et al shows, in Fig. 1, the lens 1 has an aperture 5 and a focal plane 6.

Regarding claims 6-8,17-19, Kitagawa et al discloses, in Fig. 1, an aperture 5 positioned at a predetermined distance from the first surface of the lens. Thus Kitagawa et al inherently discloses a vignetting reducing mechanism.

### *Allowable Subject Matter*

3. Claims 2,4,13,15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

4. Claims 3 and 14 are objected to as being dependent upon the above objected claims.

*Response to Arguments*

5. Applicant's arguments filed Feb. 23, 2006 have been fully considered but they are not persuasive. The applicant, in page 7, argues that "it is respectfully submitted that these surfaces of Kitagawa do not fairly teach or suggest a first surface for primarily performing a color correction function as claimed. For example, there does not appear to be any teaching by Kitagawa et al of a surface to perform color correction as claimed". However the applicant does not analyze why the claimed invention 'a lens' including a diffraction efficiency improvement mechanism can perform a color correction while the Kitagawa's same structure 'a lens' including a diffraction lens surface being capable of compensating chromatic aberration, but cannot perform a color correction as argued. Based on what basic does the applicant indicates that the Kitagawa's lens including a diffraction lens surface being capable of compensating chromatic aberration, cannot perform a color correction. In fact, the Kitagawa's lens being capable of compensating chromatic aberration does perform a color correction because 'compensating chromatic aberration' is nothing more than performing a color correction. The applicant repeatedly, unsurely argues "**do not appear** to be any teaching" or "**do not appear** to fairly teach or suggest", but does not (or cannot) point out the reasons why 'compensating chromatic aberration' is not 'performing a color correction'.

6. The applicant also argues "The Federal Circuit has ruled, "Under 35 U.S.C. 102, anticipation requires that each and every element of the claimed invention be disclosed in the prior art. . . . In addition, the prior art reference must be enabling, thus placing the allegedly disclosed matter in the possession of the public." And cites a case law Akyo N.V. v. United States Int'l Trade Comm'n, 1 USPQ 2d 1241, 1245 (Fed. Cir. 1986), cert. denied. 482 U.S. 909

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(1987). [emphasis and added]”. In comparison, the claimed invention comprising a lens comprising a first surface including a diffraction efficiency improvement mechanism and a second surface while the Kitagawa’s lens including a first surface including a diffraction surface 4 and a second surface. Thus, the structure of the claimed invention is identical to the Kitagawa’s lens. What ‘element’ in the claimed invention is not disclosed in Kitagawa? Therefore the applicant is not in a right position to cite such a case law.

7. In response to the applicant’s arguments to the rejection of claims 2,3,13,14 under 35 U.S.C. 103, this rejection has been withdrawn.

#### ***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

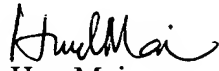
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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huy Mai whose telephone number is (571) 272-2334. The examiner can normally be reached on M-F (7:00 a.m.-3:30 p.m.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky L. Mack can be reached on (571) 272-2333. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1562.

  
Huy Mai  
Primary Examiner  
Art Unit 2873

HKM/  
April 21, 2006